

110TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. BOND (for himself, Mr. LEAHY, Mr. NELSON of Nebraska, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Guard Em-  
5       powerment Act of 2007”.

1 **SEC. 2. EXPANDED AUTHORITY OF CHIEF OF THE NA-**  
2 **TIONAL GUARD BUREAU AND EXPANDED**  
3 **FUNCTIONS OF THE NATIONAL GUARD BU-**  
4 **REAU.**

5 (a) EXPANDED AUTHORITY.—

6 (1) IN GENERAL.—Subsection (a) of section  
7 10501 of title 10, United States Code, is amended  
8 by striking “joint bureau of the Department of the  
9 Army and the Department of the Air Force” and in-  
10 sserting “joint activity of the Department of De-  
11 fense”.

12 (2) PURPOSE.—Subsection (b) of such section  
13 is amended by striking “between” and all that fol-  
14 lows and inserting “between—

15 “(1)(A) the Secretary of Defense, the Joint  
16 Chiefs of Staff, and the commanders of the combat-  
17 ant commands of the United States, and (B) the  
18 Department of the Army and the Department of the  
19 Air Force; and

20 “(2) the several States.”.

21 (b) ENHANCEMENTS OF POSITION OF CHIEF OF NA-  
22 TIONAL GUARD BUREAU.—

23 (1) ADVISORY FUNCTION ON NATIONAL GUARD  
24 MATTERS.—Subsection (c) of section 10502 of title  
25 10, United States Code, is amended by inserting “to

1 the Secretary of Defense, to the Chairman of the  
2 Joint Chiefs of Staff,” after “principal adviser”.

3 (2) MEMBER OF JOINT CHIEFS OF STAFF.—(A)

4 Such section is further amended—

5 (i) by redesignating subsections (d) and (e)  
6 as subsections (e) and (f), respectively; and

7 (ii) by inserting after subsection (c) the  
8 following new subsection (d):

9 “(d) MEMBER OF JOINT CHIEFS OF STAFF.—The  
10 Chief of the National Guard Bureau shall perform the du-  
11 ties prescribed for him or her as a member of the Joint  
12 Chiefs of Staff under section 151 of this title.”.

13 (B) Section 151(a) of such title is amended by  
14 adding at the end the following new paragraph:

15 “(7) The Chief of the National Guard Bu-  
16 reau.”.

17 (3) GRADE.—Subsection (e) of such section, as  
18 redesignated by paragraph (2)(A)(i) of this sub-  
19 section, is further amended by striking “lieutenant  
20 general” and inserting “general”.

21 (4) ANNUAL REPORT TO CONGRESS ON VALI-  
22 DATED REQUIREMENTS.—Section 10504 of such  
23 title is amended by adding at the end the following  
24 new subsection:

1       “(c) ANNUAL REPORT ON VALIDATED REQUIRE-  
2       MENTS.—Not later than December 31 each year, the Chief  
3       of the National Guard Bureau shall submit to Congress  
4       a report on the following:

5               “(1) The requirements validated under section  
6       10503a(b)(1) of this title during the preceding fiscal  
7       year.

8               “(2) The requirements referred to in paragraph  
9       (1) for which funding is to be requested in the next  
10      budget for a fiscal year under section 10544 of this  
11      title.

12              “(3) The requirements referred to in paragraph  
13      (1) for which funding will not be requested in the  
14      next budget for a fiscal year under section 10544 of  
15      this title.”.

16      (c) ENHANCEMENT OF FUNCTIONS OF NATIONAL  
17      GUARD BUREAU.—

18              (1) DEVELOPMENT OF CHARTER.—Section  
19      10503 of title 10, United States Code, is amended—

20                      (A) in the matter preceding paragraph (1),  
21                      by striking “The Secretary of the Army and the  
22                      Secretary of the Air Force shall jointly develop”  
23                      and inserting “The Secretary of Defense, in  
24                      consultation with the Secretary of the Army

1           and the Secretary of the Air Force, shall de-  
2           velop”; and

3                   (B) in paragraph (12), by striking “the  
4           Secretaries” and inserting “the Secretary of  
5           Defense”.

6           (2) ADDITIONAL GENERAL FUNCTIONS.—Such  
7           section is further amended—

8                   (A) by redesignating paragraph (12), as  
9           amended by paragraph (1)(B) of this sub-  
10          section, as paragraph (13); and

11                   (B) by inserting after paragraph (11) the  
12          following new paragraph (12):

13                   “(12) Facilitating and coordinating with other  
14          Federal agencies, and with the several States, the  
15          use of National Guard personnel and resources for  
16          and in contingency operations, military operations  
17          other than war, natural disasters, support of civil  
18          authorities, and other circumstances.”.

19           (3) MILITARY ASSISTANCE FOR CIVIL AUTHORI-  
20          TIES.—Chapter 1011 of such title is further amend-  
21          ed by inserting after section 10503 the following  
22          new section:

1 **“§ 10503a. Functions of National Guard Bureau: mili-**  
2 **tary assistance to civil authorities**

3 “(a) IDENTIFICATION OF ADDITIONAL NECESSARY  
4 ASSISTANCE.—The Chief of the National Guard Bureau  
5 shall—

6 “(1) identify gaps between Federal and State  
7 capabilities to prepare for and respond to emer-  
8 gencies; and

9 “(2) make recommendations to the Secretary of  
10 Defense on programs and activities of the National  
11 Guard for military assistance to civil authorities to  
12 address such gaps.

13 “(b) SCOPE OF RESPONSIBILITIES.—In meeting the  
14 requirements of subsection (a), the Chief of the National  
15 Guard Bureau shall, in coordination with the adjutants  
16 general of the States, have responsibilities as follows:

17 “(1) To validate the requirements of the several  
18 States and Territories with respect to military as-  
19 sistance to civil authorities.

20 “(2) To develop doctrine and training require-  
21 ments relating to the provision of military assistance  
22 to civil authorities.

23 “(3) To acquire equipment, materiel, and other  
24 supplies and services for the provision of military as-  
25 sistance to civil authorities.

1           “(4) To assist the Secretary of Defense in pre-  
2       paring the budget required under section 10544 of  
3       this title.

4           “(5) To administer amounts provided the Na-  
5       tional Guard for the provision of military assistance  
6       to civil authorities.

7           “(6) To carry out any other responsibility relat-  
8       ing to the provision of military assistance to civil au-  
9       thorities as the Secretary of Defense shall specify.

10       “(c) ASSISTANCE.—The Chairman of the Joint  
11       Chiefs of Staff shall assist the Chief of the National Guard  
12       Bureau in carrying out activities under this section.

13       “(d) CONSULTATION.—The Chief of the National  
14       Guard Bureau shall carry out activities under this section  
15       in consultation with the Secretary of the Army and the  
16       Secretary of the Air Force.”.

17           (4) BUDGETING FOR TRAINING AND EQUIP-  
18       MENT FOR MILITARY ASSISTANCE TO CIVIL AU-  
19       THORITIES AND OTHER DOMESTIC MISSIONS.—  
20       Chapter 1013 of title 10, United States Code, is  
21       amended by adding at the end the following new sec-  
22       tion:

1 **“§ 10544. National Guard training and equipment:**  
2 **budget for military assistance to civil au-**  
3 **thorities and for other domestic oper-**  
4 **ations**

5 “(a) IN GENERAL.—The budget justification docu-  
6 ments materials submitted to Congress in support of the  
7 budget of the President for a fiscal year (as submitted  
8 with the budget of the President under section 1105(a)  
9 of title 31) shall specify separate amounts for training and  
10 equipment for the National Guard for purposes of military  
11 assistance to civil authorities and for other domestic oper-  
12 ations during such fiscal year.

13 “(b) SCOPE OF FUNDING.—The amounts specified  
14 under subsection (a) for a fiscal year shall be sufficient  
15 for purposes as follows:

16 “(1) The development and implementation of  
17 doctrine and training requirements applicable to the  
18 assistance and operations described in subsection (a)  
19 for such fiscal year.

20 “(2) The acquisition of equipment, materiel,  
21 and other supplies and services necessary for the  
22 provision of such assistance and such operations in  
23 such fiscal year.”.

24 (5) LIMITATION ON INCREASE IN PERSONNEL  
25 OF NATIONAL GUARD BUREAU.—The Secretary of  
26 Defense shall, to the extent practicable, ensure that



1 no additional personnel are assigned to the National  
2 Guard Bureau in order to address administrative or  
3 other requirements arising out of the amendments  
4 made by this subsection.

5 (d) CONFORMING AND CLERICAL AMENDMENTS.—

6 (1) CONFORMING AMENDMENT.—The heading  
7 of section 10503 of title 10, United States Code, is  
8 amended to read as follows:

9 **“§ 10503. Functions of National Guard Bureau: char-**  
10 **ter”.**

11 (2) CLERICAL AMENDMENTS.—(A) The table of  
12 sections at the beginning of chapter 1011 of such  
13 title is amended by striking the item relating to sec-  
14 tion 10503 and inserting the following new items:

“10503. Functions of National Guard Bureau: charter.

“10503a. Functions of National Guard Bureau: military assistance to civil au-  
thorities.”.

15 (B) The table of sections at the beginning of  
16 chapter 1013 of such title is amended by adding at  
17 the end the following new item:

“10544. National Guard training and equipment: budget for military assistance  
to civil authorities and for other domestic operations.”.

18 **SEC. 3. PROMOTION OF ELIGIBLE RESERVE OFFICERS TO**  
19 **LIEUTENANT GENERAL AND VICE ADMIRAL**  
20 **GRADES ON THE ACTIVE-DUTY LIST.**

21 (a) SENSE OF CONGRESS.—It is the sense of Con-  
22 gress that, whenever officers are considered for promotion

1 to the grade of lieutenant general, or vice admiral in the  
2 case of the Navy, on the active duty list, officers of the  
3 reserve components of the Armed Forces who are eligible  
4 for promotion to such grade should be considered for pro-  
5 motion to such grade.

6 (b) PROPOSAL.—The Secretary of Defense shall sub-  
7 mit to Congress a proposal for mechanisms to achieve the  
8 objective specified in subsection (a). The proposal shall in-  
9 clude such recommendations for legislative or administra-  
10 tive action as the Secretary considers appropriate in order  
11 to achieve that objective.

12 (c) NOTICE ACCOMPANYING NOMINATIONS.—The  
13 President shall include with each nomination of an officer  
14 to the grade of lieutenant general, or vice admiral in the  
15 case of the Navy, on the active-duty list that is submitted  
16 to the Senate for consideration a certification that all re-  
17 serve officers who were eligible for consideration for pro-  
18 motion to such grade were considered in the making of  
19 such nomination.

20 **SEC. 4. PROMOTION OF RESERVE OFFICERS TO LIEUTEN-**  
21 **ANT GENERAL GRADE.**

22 (a) TREATMENT OF SERVICE AS ADJUTANT GEN-  
23 ERAL AS JOINT DUTY EXPERIENCE.—

1           (1) DIRECTORS OF ARMY AND AIR NATIONAL  
2       GUARD.—Section 10506(a)(3) of title 10, United  
3       States Code, is amended—

4                   (A) by redesignating subparagraphs (C),  
5                   (D), and (E) as subparagraphs (D), (E), and  
6                   (F), respectively; and

7                   (B) by inserting after subparagraph (B)  
8       the following new subparagraph (C):

9       “(C) Service of an officer as adjutant general shall  
10   be treated as joint duty experience for purposes of sub-  
11   paragraph (B)(ii).”.

12           (2) OTHER OFFICERS.—The service of an offi-  
13   cer of the Armed Forces as adjutant general, or as  
14   an officer (other than adjutant general) of the Na-  
15   tional Guard of a State who performs the duties of  
16   adjutant general under the laws of such State, shall  
17   be treated as joint duty or joint duty experience for  
18   purposes of any provisions of law required such duty  
19   or experience as a condition of promotion.

20       (b) REPORTS ON PROMOTION OF RESERVE MAJOR  
21   GENERALS TO LIEUTENANT GENERAL GRADE.—

22           (1) REVIEW REQUIRED.—The Secretary of the  
23   Army and the Secretary of the Air Force shall each  
24   conduct a review of the promotion practices of the  
25   military department concerned in order to identify

1       and assess the practices of such military department  
2       in the promotion of reserve officers from major gen-  
3       eral grade to lieutenant general grade.

4           (2) REPORTS.—Not later than 60 days after  
5       the date of the enactment of this Act, the Secretary  
6       of the Army and the Secretary of the Air Force shall  
7       each submit to the congressional defense committees  
8       a report on the review conducted by such official  
9       under paragraph (1). Each report shall set forth—

10           (A) the results of such review; and

11           (B) a description of the actions intended to  
12       be taken by such official to encourage and fa-  
13       cilitate the promotion of additional reserve offi-  
14       cers from major general grade to lieutenant  
15       general grade.

16           (3) CONGRESSIONAL DEFENSE COMMITTEES  
17       DEFINED.—In this subsection, the term “congres-  
18       sional defense committees” means—

19           (A) the Committees on Armed Services  
20       and Appropriations of the Senate; and

21           (B) the Committees on Armed Services  
22       and Appropriations of the House of Representa-  
23       tives.

1 **SEC. 5. REQUIREMENT THAT POSITION OF DEPUTY COM-**  
2 **MANDER OF THE UNITED STATES NORTHERN**  
3 **COMMAND BE FILLED BY A QUALIFIED NA-**  
4 **TIONAL GUARD OFFICER.**

5 (a) IN GENERAL.—The position of Deputy Com-  
6 mander of the United States Northern Command shall be  
7 filled by a qualified officer of the National Guard who is  
8 eligible for promotion to the grade of lieutenant general.

9 (b) PURPOSE.—The purpose of the requirement in  
10 subsection (a) is to ensure that information received from  
11 the National Guard Bureau regarding the operation of the  
12 National Guard of the several States is integrated into the  
13 plans and operations of the United States Northern Com-  
14 mand.

15 **SEC. 6. REQUIREMENT FOR SECRETARY OF DEFENSE TO**  
16 **PREPARE ANNUAL PLAN FOR RESPONSE TO**  
17 **NATURAL DISASTERS AND TERRORIST**  
18 **EVENTS.**

19 (a) REQUIREMENT FOR ANNUAL PLAN.—Not later  
20 than March 1, 2007, and each March 1 thereafter, the  
21 Secretary of Defense, in consultation with the commander  
22 of the United States Northern Command and the Chief  
23 of the National Guard Bureau, shall prepare and submit  
24 to Congress a plan for coordinating the use of the Na-  
25 tional Guard and members of the Armed Forces on active  
26 duty when responding to natural disasters, acts of ter-

1 rorism, and other man-made disasters as identified in the  
2 national planning scenarios described in subsection (e).

3 (b) INFORMATION TO BE PROVIDED TO SEC-  
4 RETARY.—To assist the Secretary of Defense in preparing  
5 the plan, the National Guard Bureau, pursuant to its pur-  
6 pose as channel of communications as set forth in section  
7 10501(b) of title 10, United States Code, shall provide to  
8 the Secretary information gathered from Governors, adju-  
9 tants general of States, and other State civil authorities  
10 responsible for homeland preparation and response to nat-  
11 ural and man-made disasters.

12 (c) TWO VERSIONS.—The plan shall set forth two  
13 versions of response, one using only members of the Na-  
14 tional Guard, and one using both members of the National  
15 Guard and members of the regular components of the  
16 Armed Forces.

17 (d) MATTERS COVERED.—The plan shall cover, at a  
18 minimum, the following:

19 (1) Protocols for the Department of Defense,  
20 the National Guard Bureau, and the Governors of  
21 the several States to carry out operations in coordi-  
22 nation with each other and to ensure that Governors  
23 and local communities are properly informed and re-  
24 main in control in their respective States and com-  
25 munities.

1           (2) An identification of operational procedures,  
2           command structures, and lines of communication to  
3           ensure a coordinated, efficient response to contin-  
4           gencies.

5           (3) An identification of the training and equip-  
6           ment needed for both National Guard personnel and  
7           members of the Armed Forces on active duty to pro-  
8           vide military assistance to civil authorities and for  
9           other domestic operations to respond to hazards  
10          identified in the national planning scenarios.

11          (e) NATIONAL PLANNING SCENARIOS.—The plan  
12          shall provide for response to the following hazards:

13               (1) Nuclear detonation, biological attack, bio-  
14               logical disease outbreak/pandemic flu, the plague,  
15               chemical attack-blister agent, chemical attack-toxic  
16               industrial chemicals, chemical attack-nerve agent,  
17               chemical attack-chlorine tank explosion, major hurri-  
18               cane, major earthquake, radiological attack-radio-  
19               logical dispersal device, explosives attack-bombing  
20               using improvised explosive device, biological attack-  
21               food contamination, biological attack-foreign animal  
22               disease and cyber attack.

23               (2) Any other hazards identified in a national  
24               planning scenario developed by the Homeland Secu-  
25               rity Council.

1 **SEC. 7. ADDITIONAL REPORTING REQUIREMENTS RELAT-**  
2 **ING TO NATIONAL GUARD EQUIPMENT.**

3 Section 10541 of title 10, United States Code, is  
4 amended by adding at the end the following new sub-  
5 section:

6 “(d) Each report under this section concerning equip-  
7 ment of the National Guard shall also include the fol-  
8 lowing:

9 “(1) A statement of the accuracy of the projec-  
10 tions required by subsection (b)(5)(D) contained in  
11 earlier reports under this section, and an expla-  
12 nation, if the projection was not met, of why the  
13 projection was not met.

14 “(2) A certification from the Chief of the Na-  
15 tional Guard Bureau setting forth an inventory for  
16 the preceding fiscal year of each item of equip-  
17 ment—

18 “(A) for which funds were appropriated;

19 “(B) which was due to be procured for the  
20 National Guard during that fiscal year; and

21 “(C) which has not been received by a Na-  
22 tional Guard unit as of the close of that fiscal  
23 year.”.